

**REMARKS**

Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

Claims 21-37 are currently pending in the application.

Claims 21-25, 29, 34, and 35-37 have been amended.

**Regarding the Claim Interpretation**

Applicant has amended claim 21 and others to provide additional structure to the claimed apparatus. The structure is supported in the Figures 1-5D wherein the companion body fluid analyzing cartridge 30 has a body having a top side and a bottom side. The bottom side of the body is detachably connected to an associated sensing cartridge body 30. As shown in solid lines in Figure 2, a fluid reservoir is connected to a first tube and a second tube. As such, Applicant respectfully submits that structure has been added to claim 1.

**Regarding the § 102 Rejection**

Claims 21-23, 26-34 and 36 were rejected under 35 USC § 102(b) for being anticipated by Lipshutz et al (U.S. Patent No. 5,856,174).

Applicant would agree with the Examiner that Lipshutz teaches a waste reservoir 414. Applicant respectfully submits that Lipshutz does not teach or anticipate a reservoir that is both a fluid reservoir for providing fluid as well as a waste reservoir or receiving waste fluid.

Claim 21, as amended, recites, among other things, "a fluid reservoir, connected to said first tube, said fluid reservoir containing a fluid that is to be provided to said associated sensing cartridge body." Furthermore, claim 21 recites structure requiring that the fluid reservoir is also "a waste reservoir and connected to a second tube to receive waste materials from said associated sensing cartridge body." Applicant respectfully submits that none of the art cited

teaches a reservoir that is both a fluid reservoir and a waste reservoir. Applicant further submits that these are structural requirements of the recited companion fluid analyzing cartridge and submits that it is not anticipated by the cited art. Applicant respectfully requests that this § 102 rejection be withdrawn and submits that claim 21 is ready for allowance.

Claims 22, 23, and 26-33 are each either directly or indirectly dependent upon claim 21 and are therefore not anticipated for at least the same reasons as discussed above with respect to claim 21. Applicant respectfully requests that the § 102 rejection be withdrawn.

Regarding claim 34, this claim recites, among other things, "the reagent storage system connected to a first tube and a waste retrieval system connected to a second tube." The claim goes on to recite "both said reagents storage system and said waste retrieval system comprising a same fluid reservoir." Applicant respectfully submits that none of the cited art teaches or anticipates two separate systems such as a reagent storage system and a waste retrieval system using the same fluid reservoir. As such, Applicant respectfully submits that claim 34 is not anticipated by the cited art and respectfully requests that the § 102 rejection be withdrawn.

Regarding claim 36, this claim recites, among other things, a companion body fluid analyzing cartridge body that comprises an "assay element preparation system connected to a first tube and a waste retrieval system connected to a second tube." The claim goes on to recite that both the assay element preparation system and the waste retrieval system comprise "a same fluid reservoir." The same fluid reservoir is "connected to the first tube for providing a fluid to said assay element preparation system and connected to said second tube for receiving waste fluid from said waste retrieval system." Applicant respectfully submits that the cited art does not teach or anticipate the use of a same fluid reservoir in two distinctly different systems. Applicant respectfully requests that the § 102 rejection be withdrawn and submits that claim 36 is ready for allowance.

**Regarding the § 103 Rejection**

Claims 24, 25, 35 and 37 were rejected under 35 USC § 103(a) for being rendered obvious by Lipshutz in view of Lenier et al (U.S. Patent No. 6,037,178). Applicant respectfully points out that neither Lipshutz nor Lenier teach, allude to or render obvious a same fluid reservoir in a companion body fluid analyzing cartridge body that has two tube connected thereto such that each tube goes to different systems on the companion body fluid analyzing cartridge body. As such, Applicant respectfully submits that none of the cited art, teaches, alludes to or renders obvious that which is claimed in claims 24, 25, 35 or 37. Applicant respectfully requests that this § 103 rejection be withdrawn and submits that these claims are all ready for allowance.

Applicant believes that all claims are ready for allowance and is prepared to file an appeal in response to a further rejection. Applicant respectfully requests the Examiner to call the Applicant to discuss the claims if necessary.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: July 27, 2005

Respectfully submitted,

By 

Steven R. Greenfield

Registration No.: 38,166

JENKENS & GILCHRIST, A PROFESSIONAL  
CORPORATION

1445 Ross Avenue, Suite 3200

Dallas, Texas 75202

(214) 855-4500

Attorneys For Applicant